



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

MARK J. SALADINO
County Counsel

June 9, 2015

TELEPHONE
(213) 974-1930
FACSIMILE
(213) 613-4751
TDD
(213) 633-0901

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES
#19 of June 9, 2015

PATRICK OGAWA
ACTING EXECUTIVE OFFICER

Agenda No. 3
03/24/15

Re: **PROJECT NUMBER R2014-00893-(5)**
CONDITIONAL USE PERMIT NO. 2014-00040-(5)
FIFTH SUPERVISORIAL DISTRICT/THREE-VOTE MATTER

Dear Supervisors:

Your Board previously conducted a public hearing regarding the Regional Planning Commission's approval of the above-referenced conditional use permit ("CUP"), which authorizes the sale of beer, wine, and distilled spirits for off-site consumption for a market/grocery store on a property located at 40360 170th Street, in the unincorporated community of Lake Los Angeles.

At the conclusion of the hearing, you indicated your intent to approve the CUP and instructed our office to prepare findings and conditions for your approval. Enclosed are findings and conditions for your consideration.

Very truly yours,

MARK J. SALADINO
County Counsel

By


ELAINE M. LEMKE
Principal Deputy County Counsel
Property Division

APPROVED AND RELEASED:


THOMAS J. FAUGHMAN
Senior Assistant County Counsel

EML:ph
Enclosures

c: Sachi A. Hamai, Interim Chief Executive Officer
Patrick Ogawa, Acting Executive Officer, Board of Supervisors

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NO. R2014-00893-(5)
CONDITIONAL USE PERMIT NO. 2014-00040-(5)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing on March 24, 2015 in the matter of Project No. R2014-00893-(5) ("Project"), consisting of Conditional Use Permit No. 2014-00040-(5) ("CUP"). The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the Project on October 15, 2014.
2. The permittee, Dolgen California, LLC ("permittee"), requests the CUP to authorize the sale of alcoholic beverages (beer, wine, and distilled spirits) (ABC Type 21 License) for off-site consumption on a property located at 40360 170th Street East in the unincorporated community of Lake Los Angeles ("Project Site") in the C-2 (Neighborhood Business) zone pursuant to Los Angeles County Code ("County Code") sections 22.28.160, 22.56.090, and 22.56.195.
3. The Project Site is 1.40 gross acres in size and consists of two legal lots. The Project Site is rectangular in shape with flat topography and developed with a Dollar General market/grocery store ("Dollar General").
4. The Project Site is located in the Antelope Valley East Zoned District and is zoned C-2, having been so zoned on September 5, 1967, by Ordinance No. 9413.
5. The Project Site is located within the "C" (Commercial) land use category of the Antelope Valley Areawide General Plan ("Area Plan").
6. Surrounding zoning within a 500-foot radius of the Project Site includes:

North:	C-2, R-A-30,000 (Residential Agricultural – 30,000 Square Foot Minimum Required Lot Area);
South:	C-2;
East:	C-2, R-3-20U (Limited Multiple Residence – 20 Units per Acre); and,
West:	C-2, C-3-DP (Unlimited Commercial – Development Program), R-3-20U.
7. Surrounding land uses within a 500-foot radius of the Project Site include:

North:	Grocery store (Saddleback Market), a restaurant, a public library, a hardware store, an auto parts store, a health clinic, vacant land, and single-family residences;
South:	Restaurants, a party supply store, vacant land, and single-family residences;

East: Fast food restaurant (Burger Basket), vacant land, a utility facility, and a church; and,
West: Vacant land and single-family residences.

8. On November 19, 2013, Plot Plan No. 2012-01053 was approved to allow construction of Dollar General. On March 14, 2014, Plot Plan No. 2014-00201 was approved for installation of the signs for Dollar General.
9. The site plan for Dollar General depicts the rectangular-shaped parcel at the intersection of Avenue O and 170th Street East. Dollar General is set back from both Avenue O to the north and 170th Street East to the west. Vehicular ingress and egress to the Project Site is provided by two driveways, one on 170th Street East serving as the primary entrance/exit, and secondary entrance/exit via Avenue O. A walking path is provided from 170th Street East to the front door of the building. A parking lot containing 50 parking spaces, including two ADA-accessible spaces, is located between the building and the streets. The Project Site also includes six bicycle parking spaces, consisting of three short-term spaces and three long-term spaces. The perimeter of the Project Site that fronts both Avenue O and 170th Street East is landscaped. An 18- by-18-foot trash enclosure is located along the southern portion of the Project Site near its loading area.
10. The County Sheriff's Department ("Sheriff") submitted correspondence regarding the Project and does not oppose the Project.
11. The State Department of Alcoholic Beverage Control ("ABC") submitted a report regarding the Project. The report stated that the Project Site is located in a high crime reporting district and in a census tract that does not exceed the number of existing alcoholic beverage licenses allowed. An area is considered a "high crime" area by ABC if the number of crimes reported exceeds 120 percent of the average number of criminal offenses per census tract countywide. The 120 percent trigger for the relevant district is 104 reported crimes. There were a total of 756 reported crimes in the reporting district.
12. Prior to the Commission's public hearing on the Project, Regional Planning staff determined that the Project qualified for a Class 1, Existing Facilities, categorical exemption under the California Environmental Quality Act (Public Resources Code section 21000, et seq.) ("CEQA"), the State CEQA Guidelines, and the Environmental Document Reporting Procedures and Guidelines for the County. The Project involves the sale of alcoholic beverages in a previously approved grocery store/market.
13. A duly-noticed public hearing regarding the Project was held by the Commission on October 15, 2014. The permittee's representative testified in favor of the Project, outlining a history of Dollar General and its business plan, and answered a question from the Commission regarding the location of the shelf devoted to alcoholic beverages and its proximity to the restroom. Two individuals testified in

opposition to the Project, citing possible crime and other problems associated with the proposed sales of alcoholic beverages. The opponents also discussed the presence of other establishments selling alcoholic beverages in the community. There being no further testimony, the Commission closed the public hearing and unanimously approved the permit. Project opponents timely appealed the Commission's approval to the Board.

14. A duly-noticed public hearing on the Project was held by the Board on March 24, 2015, after an appeal by Project opponents of the approval of the Project by the Commission. At the hearing, staff from the Department of Regional Planning ("Regional Planning") presented a report on the Project. Regional Planning staff explained that a plot plan for Dollar General was approved in 2013 and that the CUP is a subsequent permit to allow off-site alcohol sales in the store. Regional Planning noted that there was one facility located within 500 feet of the Project Site that was legally selling alcoholic beverages, and another within 500 feet of the Project Site that was selling alcohol but not permitted to do so. One of the conditions of approval for the Project will limit the amount of shelf space that can be used for alcohol sales to five percent.
15. At the Board hearing, Regional Planning staff also stated that the Project Site was adequately buffered from surrounding land uses by streets, a parking lot, and vacant land, and that the burden of proof for a CUP had been met by the permittee. Regional Planning recommended that the Board deny the appeal and affirm the Commission's approval of the CUP for a 10-year term.
16. Seven people testified regarding the Project at the Board hearing, five in favor of the appeal and against the Project, and two opposed to the appeal and in support of the Commission's approval of the Project. Opponents of the Project contended there was no need for another establishment selling alcohol in the area, asserting that the public convenience and necessity did not dictate approval of the CUP due to the availability of alcohol from other nearby venues, including a competing market. The opponents also expressed concerns that allowing sales of alcohol would send the wrong message to children and that it would increase loitering and crime in the area.
17. One of the proponents of the Project, a representative of the permittee, testified at the Board hearing that the Commission had thoroughly reviewed the application and materials before finding that the public convenience and necessity were served by the Project. The other person testifying in support of the Project, also a representative of the permittee, stated that Dollar General was a purveyor of grocery and consumer goods and that the incidental sale of alcohol was a part of the company's standard product offerings. He also testified that the permittee's alcohol security plans were submitted to Regional Planning and the Sheriff, both of whom placed appropriate conditions on the permit.
18. During the Board hearing, Supervisor Antonovich advised that the Lake Los Angeles Town Council had considered the Project and supported it.

Regional Planning staff reiterated that the Sheriff had been consulted, and that sales of alcohol would be limited to five percent of Dollar General's overall shelf space. Other conditions regarding alcohol sales, including requiring training for employees, limiting the signage for alcohol sales, and prohibiting alcohol products near exits and check-out areas are included in the Project conditions.

19. The Board finds that to ensure continued compatibility of the Project with the surrounding land uses, it is necessary to limit the CUP to 10 years.
20. The Board finds that the Project Site is compatible with the "C" (Commercial) land use category of the Area Plan. This commercial land use designation of the Area Plan is intended for business and retail uses. The proposed sale of beer, wine, and distilled spirits as an accessory use at a new grocery store/market is an activity that occurs in retail establishments and is therefore consistent with the permitted uses of the underlying land use category.
21. The Board finds that the proposed sale of alcoholic beverages will result in a convenience and necessity for the public because it will provide another location for nearby residents to purchase alcoholic beverages for off-site consumption while shopping for other goods.
22. The Board finds that the Project meets all zoning code requirements of Title 22 of the County Code ("Zoning Code"). The subject building was previously approved with a plot plan, which ensured all setback, height, and parking requirements were satisfied.
23. The Board finds that pursuant to sections 22.60.174 and 22.60.175 of the County Code, the community was properly notified of the public hearings by mail, newspaper, and property posting. Additionally, the Project was noticed and case materials were available on Regional Planning's website and at libraries located in the vicinity of the Lake Los Angeles community.
24. The location of the documents and other materials constituting the record of proceedings upon which the Board's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits North Section, Department of Regional Planning.

BASED ON THE FOREGOING, THE BOARD CONCLUDES THAT:

- A. The proposed use with the attached conditions is consistent with the adopted Area Plan for the area, a part of the Los Angeles Countywide General Plan, because the proposed sale of alcoholic beverages for off-site consumption will occur in a commercial structure in an area designated as commercial on the Area Plan's land use policy map. Alcohol sales are appropriate in commercial areas.

- B. The proposed use will not adversely affect the health, peace, comfort, or welfare of others in the surrounding area or be materially detrimental to the surrounding community or jeopardize, endanger or otherwise constitute a menace to the public health, safety, or general welfare because the use is appropriately conditioned, and will occur in a commercial area and surrounding uses will be adequately buffered by other buildings, streets, landscaping, fencing, and large tracts of vacant land.
- C. The Project Site, as reflected on the 2013-approved plot plan for Dollar General, is adequate in size and shape to accommodate the development standards for the C-2 zone including the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in Title 22, or as is otherwise required to integrate the use with the uses in the surrounding area.
- D. The Project Site is adequately served by highways or streets of sufficient width, driveways, and parking lots, all of which are improved as necessary to accommodate the quantity and type of traffic generated by the Project.
- E. The requested use at the proposed location will not adversely affect the use of a place used exclusively for religious worship, school, park, playground, or any similar use within a 600-foot radius because those uses are adequately buffered from the Project Site by streets, a parking lot, and vacant land.
- F. Although at least one other establishment selling alcoholic beverages is located within 500 feet of the Project Site, the requested use at the proposed location will not result in an undue concentration of similar premises because the Board finds that the public convenience or necessity for an additional facility selling alcoholic beverages for off-site consumption outweighs the fact that it is located within a 500-foot radius of another facility selling alcoholic beverages for either on-site or off-site consumption, and because the shelf space devoted to alcoholic beverages for the Project will be limited to not more than five percent of the total shelf space of the grocery store/market.
- G. The requested use at the proposed location is sufficiently buffered from the residential area within the immediate vicinity so as not to adversely affect that area. The nearest residential area to the Project Site is southeast of the Project Site and is adequately buffered by streets and vacant land.
- H. The requested use at the proposed location will not adversely affect the economic welfare of the surrounding community because the sale of alcohol will occur as accessory to the sale of groceries and other day-to-day goods. Dollar General will provide a convenient place for residents and others to purchase beer, wine, and distilled spirits, along with other goods.
- I. The exterior appearance of the structure will not be inconsistent with the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood so as to cause blight, deterioration, or

substantially diminish or impair property values within said neighborhood because the proposed use will be located in a contemporary and attractively designed building. The building contains ample fenestration and articulations in its façade, and its design is appropriate and compatible with the surrounding area.

THEREFORE, THE BOARD:

1. Finds that the Project is exempt from CEQA pursuant to section 15301 of the State CEQA Guidelines (Class 1, Existing Facilities categorical exemption); and
2. Approves Conditional Use Permit No. 2014-00040-(5), subject to the attached conditions.

**CONDITIONS OF APPROVAL
PROJECT NO. R2014-00893-(5)
CONDITIONAL USE PERMIT NO. 2014-00040-(5)**

1. This grant authorizes the sale of alcoholic beverages (ABC Type 21 Licenses for beer, wine, and distilled spirits) from a grocery store/market ("Dollar General") for off-site consumption in the C-2 (Neighborhood Business) Zone pursuant to Los Angeles County ("County") Code sections 22.28.160, 22.56.090, and 22.56.195.
2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant, owner of the property, and any other person, corporation, or other entity making use of this grant.
3. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the County Department of Regional Planning ("Regional Planning") an affidavit stating that permittee and/or owner is aware of and agrees to accept all of the conditions of this grant, and that the conditions of the grant have been recorded as required by Condition No. 8, and until all required monies have been paid pursuant to Condition No. 11. Notwithstanding the foregoing, this Condition No. 3 and Condition Nos. 5, 6, and 10 shall be effective immediately upon the date of final approval of this grant by the County.
4. Unless otherwise apparent from the context, the term "date of final approval" shall mean the date the County's action becomes effective pursuant to section 22.60.260 of the Los Angeles County Code ("Country Code").
5. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code section 65009 or any other applicable limitations period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense. If the County fails to promptly notify the permittee of any claim, action, or proceeding, or if the County fails to cooperate reasonably in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
6. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within 10 days of the filing make an initial deposit with Regional Planning in the amount of up to \$5,000, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance provided to the permittee or the permittee's counsel.

If during the litigation process, actual costs or expenses incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of \$5,000. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents shall be paid by the permittee according to County Code section 2.170.010.

7. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
8. Prior to the use of this grant, the permittee, or the owner of the subject property if other than the permittee, shall record the terms and conditions of the grant in the office of the County Registrar-Recorder/County Clerk ("Recorder"). In addition, upon any transfer or lease of the property during the term of this grant, the permittee, or the owner of the subject property if other than the permittee, shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
9. This grant shall terminate 10 years after the date of final approval of this grant. Entitlement to use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue operation after such date, whether or not the permittee proposes any modifications to the use at that time, the permittee shall file a new conditional use permit application with Regional Planning, or shall otherwise comply with the applicable requirements at that time. Such application shall be filed at least six months prior to the expiration date of this grant and shall be accompanied by the required fee. In the event that the permittee seeks to discontinue or otherwise change the use, notice is hereby given that the use of such property may require additional or different permits and would be subject to the then-applicable regulations.
10. This grant shall expire unless used within two years from the date of final approval of the grant. A single one-year time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date.
11. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan

on file. The permittee shall deposit with the County the sum of \$1,000. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for five biennial (one every other year) inspections. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200 per inspection, or the current recovery cost at the time any additional inspections are required.

12. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("Commission") or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance, or as otherwise authorized pursuant to Chapter 22.56, Part 13 of the County Code.
13. All development pursuant to this grant must be kept in full compliance with the County Fire Code to the satisfaction of the Fire Department.
14. All development pursuant to this grant shall conform with the requirements of the County Department of Public Works to the satisfaction of said department.
15. All development pursuant to this grant shall comply with the requirements of Title 22 of the County Code and of the specific zoning of the subject property, unless specifically modified by this grant, as set forth in these conditions, including the approved Exhibit "A," or a revised Exhibit "A" approved by the Director of Regional Planning ("Director").
16. The permittee shall maintain the subject property in a neat and orderly fashion. The permittee shall maintain free of litter all areas of the premises over which the permittee has control.
17. All structures, walls, and fences open to public view shall remain free of graffiti or other extraneous markings, drawings, or signage that was not approved by Regional Planning, unless directly related to the business being operated on the premises or otherwise providing pertinent information about said premises. The restrictions in this condition shall not apply to seasonal decorations or signage provided under the auspices of a civic or non-profit organization. In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of notification of such

occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.

18. The subject property shall be developed and maintained in substantial conformance with the plans on file with Regional Planning marked Exhibit "A." In the event that subsequent revisions to the approved Exhibit "A" are submitted, the permittee shall submit three copies of the proposed plans to the Director for review and approval. All revised plans must substantially conform to the originally approved Exhibit "A." All revised plans must be accompanied by the written authorization of the property owner(s) and applicable fee for such revision.

PERMIT SPECIFIC CONDITIONS - CONDITIONAL USE PERMIT (SALE OF ALCOHOLIC BEVERAGES)

19. This grant shall authorize the sale of alcoholic beverages (ABC Type 21 Licenses for beer, wine, and distilled spirits) from Dollar General, located in the C-2 Zone, for off-site consumption.
20. Alcoholic beverages displayed for sale shall be limited to no more than 5 percent of Dollar General's total shelf space.
21. Alcoholic beverages shall be sold only from 6:00 a.m. to 11:00 p.m., daily.
22. The conditions of this grant shall be retained on the premises at all times and shall be immediately produced upon request of any County Sheriff, Regional Planning Zoning Inspector, or State of California Department of Alcoholic Beverage Control ("ABC") agent. The manager and all employees of the facility shall be knowledgeable of the conditions herein.
23. Loitering shall be prohibited on the subject property, including loitering by Dollar General's employees. Signage in compliance with Part 10 of section 22.52 of the County Code shall be placed on the premises indicating said prohibition. Employees shall be instructed to enforce these regulations and to notify local law enforcement when necessary to assist with such enforcement.
24. The permittee, and all managers and designated employees of the establishment who are in the practice of selling alcoholic beverages, shall participate in the LEAD (Licensee Education on Alcohol and Drugs) Program provided by ABC. All new designated employees shall be required to attend. The permittee shall display a certificate or plaque in a publicly accessible area of the establishment indicating that all who are required to participate have participated in this program. Proof of completion of the training program by employees, the licensee and all managers shall be available upon request.
25. The permittee shall not advertise the sale of alcoholic beverages on the exterior of any structure on the subject property including its windows, walls, fences, or similar structures.

26. The placement of portable signs on the subject property is prohibited.
27. All regulations of the State of California prohibiting the sale of alcoholic beverages to minors shall be strictly enforced.
28. The consumption of alcoholic beverages shall be prohibited on the subject property, and the permittee shall post signage on the premises clearly stating this prohibition.
29. No sale of alcoholic beverages on the premises shall be made from a drive-thru window.
30. No display of alcoholic beverages on the premises shall be made from an ice tub.
31. The permittee shall display alcoholic beverages only in the cooler or shelves designated for the storage of said beverages on the "shelf plan" labeled Exhibit "A." No additional display of alcoholic beverages shall be provided elsewhere on the premises. No alcoholic beverages shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler.
32. Other than an official State lottery machine, the premises shall have no coin-operated amusement games, rides, or other structures, such as pool tables, juke boxes, video games, small carousel rides or similar riding machines.
33. Beer in containers of 16 ounces or less shall not be sold by single container, and must be sold in manufacturer pre-packaged multi-unit quantities. The permittee shall post signs on the coolers and cashier station stating the selling of single containers of beer is prohibited.
34. There shall be no wine, except wine coolers, sold in containers of less than 750 milliliters. No miniatures of any types of wine may be sold. Wine coolers shall not be sold in less than four-pack quantities.
35. The sale of fortified wines shall be prohibited.
36. No malt liquors and/or malt-based products with alcoholic content greater than 5 percent by volume shall be sold.
37. The permittee shall provide adequate lighting above all entrances and exits to the premises.
38. The permittee shall provide adequate lighting in all parking areas and walkways that are under the control of the permittee or required as a condition of this grant.
39. All lighting required by this grant shall be of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons within lighted areas during operating hours and shall be designed so as to direct light and glare

onto the premises only. Said lighting and glare shall be deflected, shaded and focused away from all adjoining properties.

40. All parking lot and other exterior lighting shall be hooded and directed away from neighboring residences to prevent direct illumination and glare, and shall be turned off within thirty minutes after the close of permittee's business activities, with the exception of sensor-activated security lights and/or low level lighting along pedestrian walkways leading to and from the parking lot.